

### **REMARKS**

Claims 3-27, 32-51, 54-66 and 71-82 are pending. Claims 1, 2, 28-31, 52, 53 and 67-70 have been cancelled without prejudice. Claims 5, 6, 9, 11, 12, 20-27, 36-51, 56, 57, 60, 62, 63 and 75-82 have been withdrawn from consideration. Claims 4, 8, 14, 33, 59 and 65 have been amended as to matters of form, without narrowing their scope. Favorable reconsideration is requested.

Claims 8, 14, 59 and 65 were rejected under 35 U.S.C. § 112, second paragraph, as indefinite. The amendments to those claims is believed to obviate the rejections and their withdrawal is respectfully requested.

Claims 2, 17, 30, 33, 53, 69 and 72 were rejected under 35 U.S.C. § 102(e) over the prior art discussed on pages 1-7 of the present specification (the “admitted prior art”). Claims 3, 18, 34, 54 and 73 were rejected under 35 U.S.C. § 102(e) over Miller (US 2003/0189915). Claims 1, 4, 7, 10, 13, 16, 28, 32, 52, 55, 58, 61, 64, 67 and 71 were rejected under 35 U.S.C. § 103(a) over the admitted prior art. Claims 19, 29, 31, 35, 68, 70 and 74 are rejected under 35 U.S.C. § 103(a) over the admitted prior art in view of Miller. The cancellation of claims 1, 2, 28-31, 52, 53 and 67-70 renders their rejection moot. Applicants submit that the independent claims under consideration are patentable for at least the following reasons.

#### **Independent Claims 17, 33 and 72**

Claim 17 is directed to a mobile communication system, which includes: a base station; a mobile station for which a shared channel shared with other mobile stations is set in order to perform data transmission with the base station; and a radio network controller which notifies the base station of at least allocated power which is a maximum value of power of the shared channel. Means, which measures an average amount of use of the power in a data transmission time on the shared channel, is included in the base station.

Claim 17 recites, inter alia, measuring the transmission power of the data transmission through transmission, i.e., in a data transmission time. By the recited measuring, appropriate

assignment of resources can be realized. These features are not described in the APA. In particular, in the known standard the measurement is performed in a prescribed period other than the period of data transmission.

For at least this reason, claim 17 is believed clearly patentable over the APA. Independent claims 33 and 72 recite substantially similar features and are believed patentable for substantially the same reasons.

Independent Claims 3, 18, 34, 54 and 73

Claim 3 is directed to a mobile communication system for forming a high speed data transfer path for a mobile station and performing resource management on the high speed data transfer path. The mobile communication system includes: means which measures a time rate at which data is sent on the data transfer path; and means which performs the resource management on the basis of a result of the measurement.

The invention to which claim 3 is directed is characterized in, e.g., presuming the use rate of a resource by measuring a time rate that is identical with the time rate of transmission of data on HS-PDSCH. This presumption allows for the appropriate assignment of resources to be realized.

On the other hand, Miller shows that the rate of respective user is presumed by measuring the number of data transmission with respective data for realizing quality of service. For at least this reason, claim 3 is believed clearly patentable over Miller. Claims 18, 34, 54 and 73 are believed patentable for substantially similar reasons.

Independent Claims 4, 16, 32, 55 and 71

The independent claims are characterized by measuring the number of codes through data transmission. By such measuring, appropriate assignment of resources can be realized. Applicants have found no teaching or suggestion of this in the cited art.

Independent Claims 19, 35 and 74

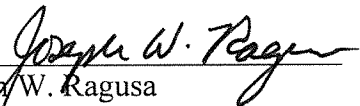
The independent claims are characterized in measuring the number of codes and transmission power through data transmission. By such measuring, appropriate assignment of resources can be realized. Applicants have found no teaching or suggestion of this in the cited art.

The dependent claims are believed patentable for at least the same reasons as their respective base claims.

In view of the above amendments and remarks, applicants believe the pending application is in condition for allowance.

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Respectfully submitted,

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